

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Board of Investments TITLE NUMBER: 113

CITE AUTHORITY Chapter 12-6-5

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: Rules for the Administration of the Consolidated
Pension Fund

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules for the Administration of the Consolidated Pension Fund

Type of Rule: Legislative Interpretive Procedural

Agency Board of Investments

Address _____

c/o State Treasurer's Office, State Capitol, Charleston, WV 25305

N/A	1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
		Increase	Decrease	Current	Next	Thereafter
	Estimated Total Cost	\$	\$	\$	\$	\$
	Personal Services					
	Current Expense					
	Repairs and Alterations					
	Equipment					
	Other					

2. Explanation of above estimates:

These proposed rules are an amendment to the original rules filed in 1978. It is not anticipated that these amended rules will require the expenditure of any additional funds.

3. Objectives of these rules:

The general purpose of these rules is to aid in the implementation of the legislative findings and purpose set forth in Section One, Article One, Chapter Twelve of the Code, wherein the Board and the Treasurer are authorized to develop and maintain modern systems, consistent with sound financial practices, for the collection, disbursement, management and investment of public moneys. The rules of this series implement such legislative intent by prescribing procedures governing participation in, and administration of, the Consolidated Pension Fund to be administered by the Board, for the purpose of enabling the participating Pension Funds to maximize the return on their investments.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

These proposed rules will continue to allow the pension funds of the State to be fully invested and accounted for on a more accurate basis.


B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

Although there are currently no local government pension funds invested by the Board, these rules would insure that if this were to occur at some future date these funds would be properly accounted for.

C. Economic Impact on Citizens/Public at Large.

Date: 11/2/89

Signature of Agency Head or Authorized Representative

A handwritten signature in dark ink, appearing to be 'R. J. ...', is written over a horizontal line.

DATE: December 13, 1989

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Thomas E. Loehr, State Treasurer

LEGISLATIVE RULE TITLE: Administration of the Consolidated Pension Fund

1. Authorizing statute(s) citation Chapter 12-6-5

2. a. Date filed in State Register with Notice of Hearing:

11-2-89

b. What other notice, including advertising, did you give of the hearing?

Notice was sent to all Local Governments and State Agencies.

c. Date of hearing (s): December 4, 1989

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached x No comments received

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

December 13, 1989

f. Name and phone number of agency person to contact for additional information:

Jerry Simpson

State Treasurer's Office

343-4000

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-6
Series II
(1978 - Amended 1989)

Subject: Rules for the Administration of the Consolidated
Pension Fund by the West Virginia State Board of
Investments

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-6

Series II

(1978 - Amended 1989)

Subject: Rules for the Administration of the Consolidated
Pension Fund by the West Virginia State Board of
Investments

Section 1. General

1.01. Scope - These rules implement the provisions of Article Six, Chapter Twelve of the Code of West Virginia, 1931 as amended, relating to the Consolidated Pension Fund established by Subsection (a), Section Eight of said Article.

1.02. Authority - These rules are issued under the authority of said Article Six, Chapter Twelve, particularly Section Five, which authorizes the Board to promulgate rules and regulations for the management and conduct of its affairs, and Section Eight, which authorizes the Board to establish rules and regulations for the administration of the various funds and accounts established by said Section Eight.

1.03. Purpose - The general purpose of these rules is to aid in the implementation of the legislative findings and purpose set forth in Section One, Article One, Chapter Twelve of the Code, wherein the Board and the Treasurer are authorized to

develop and maintain modern systems, consistent with sound financial practices, for the collection, disbursement, management and investment of public moneys. The rules in this series implement such legislative intent by prescribing procedures governing participation in, and administration of, the Consolidated Pension Fund to be administered by the Board, for the purpose of enabling the participating Pension Funds to maximize the return on their investments.

1.04. Effective Date - These regulations are promulgated on the _____ day of _____ 19____, and become effective the _____ day of _____ 19____.

Section 2. Definitions

For purposes of these rules, unless a different meaning clearly appears from the context;

"Board" means the West Virginia State Board of Investments;

"Code" means the West Virginia Code of 1931, as amended;

"Consolidated Pension Fund" means the investment fund managed by the Board and established pursuant to Subsection (a), Section Eight, Article Six, Chapter Twelve of the Code;

"Participant" means all Pension Funds, entities or individuals contributing moneys or assets to the Consolidated Pension Fund;

"Pension Funds" means and includes the Workers' Compensation Fund; the state teachers' retirement system funds; the death, disability and retirement fund for members of the Department of Public Safety's Division of Public Safety; the

public employees' retirement system funds; the judges' retirement fund; the municipal police officers' pension and relief funds; the fire fighters' pension and relief funds and such other retirement or pension funds and systems established on behalf of public employees of the state or of its political subdivisions and administered by the state;

The term "securities" shall have the same meaning set forth in Section Two, Article Six, Chapter Twelve of the Code;

"Select U. S. Government Agency Obligation" means and includes any evidence of indebtedness issued by any of the following: the Government National Mortgage Association ("GNMA"), Federal Home Loan Banks ("FHLB"), Federal Farm Credit Banks ("FFCB"), and the Federal Land Banks;

"Treasurer" means the Treasurer of the State of West Virginia; and

"U.S. Government Agency Obligation" means and shall include any obligation of any United States government agency guaranteed as to the payment of both principal and interest directly or indirectly, by the United States of America, including but not limited to the following: the GNMA; FHLB; FFCB; federal land banks; the Federal Home Loan Mortgage Corporation ("FHLMC"); the Federal National Mortgage Association ("FNMA") federal home loan banks; federal intermediate credit banks; banks for cooperatives; Tennessee Valley Authority; United States Postal Service; Farmers Home Administration; Export-Import Bank; Federal Financing Bank; and Student Loan Marketing Association; and

"U.S. Government Obligations" means and includes any direct obligation of, or obligation guaranteed as to payment of both principal and interest by, the United States of America.

Section 3. Mechanics of Participation in the Consolidated Pension Fund

Pension Funds may participate in the Consolidated Pension Fund by making written requests to the Treasurer. Written requests for deposits or withdrawals shall state the amount which the Pension Fund wishes to make available for investment, or the amount which it wishes withdraw, as the case may be. Such requests shall also contain other information which the Treasurer deems necessary. The Treasurer may require twenty-four hours advance notice for withdrawals of one million (\$1,000,000.00) or more.

Section 4. Accounting

4.01. Nature of Ownership - Each Participant shall own a hundred percent (100%) interest in the pool in which its funds are invested.

4.02. Accounting System - The Treasurer shall implement an accounting system based on generally-accepted accounting procedures for earnings, deposits and withdrawals of each participant in the Consolidated Pension Fund. In conjunction with such accounting system, the Treasurer shall adopt procedures which accurately reflect yields on investments

through amortization of premium and accretion of discount over the life of the investment as determined by investment practices of the investment community. That is to say, for investments customarily having yields to the average life of the investment such as GNMA mortgage pools, the premium or discount shall be amortized to the average life. Premium or discount for all other investments shall be amortized over the life of the investment.

4.03. Trading Gains and Losses - The Treasurer shall recognize all trading gains and losses within the month in which they occur.

4.04. Distribution of Earnings; Monthly Statement - The Treasurer shall furnish to each Participant a monthly statement of earnings, deposits and withdrawals for each account. Monthly statements shall also include an accurate statement of the yield for the preceding month for each individual investment pool.

Section 5. Investment of Consolidated Pension Fund

5.01. General Investment Policies, Objectives and Restrictions - All investment pools in the Consolidated Pension Fund shall be individually subject to the policies, objectives and restrictions set forth herein.

(a) Purpose - To invest and protect the assets of the Consolidated Pension Fund for the benefit of the citizens of the State of West Virginia. To preserve principal and seek the highest investment return consistent with the fiduciary standards established under State and Federal Law, the

regulations of the State of West Virginia and the guidelines of the State Board of Investments.

(b) Standard of Care - All investments are to be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which people of experience, prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

(c) Permissible Investments - The Consolidated Pension Fund shall abide by West Virginia Code §12-6-9, as amended, and these rules and regulations with regard to permissible investments.

(d) Social Responsibility - To the extent that investments are consistent with all other standards established by the Board, selection of investments should consider the best interests of the people of the State of West Virginia.

(e) Custody - The Board shall designate and maintain custodian arrangements in its sole discretion and no investment advisor shall maintain custody of the securities of the Consolidated Pension Fund.

(f) Investment Advisors - The Board shall select and maintain investment advisors who shall act in accordance with the terms and conditions specified by the Board and the applicable State and Federal laws.

(g) Investment Objectives - all pools within the Consolidated Pension Fund shall be subject to the investment objectives listed below in descending order of priority:

(1) Preservation of Capital - To preserve the capital investment in the Consolidated Pension Fund.

(2) Diversification - To diversify the investment of the assets of the Consolidated Pension Fund so as to minimize the risk of large losses.

(3) Rate of Return - To achieve a rate of return consistent with the rate of return objectives set by the Board.

(4) Stability - To maintain a high level of security in the Consolidated Pension Fund by minimizing risk and volatility insofar as possible within the rate of Return objectives set by the Board.

(5) Turnover - To minimize transaction costs.

(6) Liquidity - To maintain sufficient liquidity to provide for all anticipated withdrawals or transfers and to invest in issues with sufficient marketability to provide for unexpected withdrawals.

(h) Investment Restrictions

(1) The Consolidated Pension Fund shall abide by the investment restrictions of West Virginia Code §12-6-10 and as further set forth by the Board.

(2) Not more than 20% of the portfolio of the Consolidated Pension Fund may be invested in any single industry sector. (The utility industry shall be separated for the purpose of this restriction between telephone, electric, gas distribution, and similar segments.)

(3) Not more than 3% of the portfolio of the Consolidated Pension Fund may be invested in the securities issued by a single, private corporation or association.

(4) The Consolidated Pension Fund shall maintain a reasonable balance between the various classes of fixed income securities, without over-concentration.

(5) The Consolidated Pension Fund shall abide by the quality restrictions of West Virginia Code §12-6-9.

(6) Investment in financial futures contracts, options and other similar instruments shall be authorized for the sole purpose of performing hedges in order to reduce the risk associated with fluctuations in interest rates or market prices. Such investments shall be limited to direct obligations of, or obligations guaranteed as to the payment of both principal and interest by, the United States of America; namely, Treasury bills, notes, bonds and GNMA's. For purposes of these regulations, the word "hedge" means taking a position in the futures market which is opposite and approximately equal to the one held in the cash market. This is a defensive strategy and shall only be used to protect the overall values of our portfolios. Advance unanimous approval of the Board must be obtained prior to each transaction in instruments of this type.

5.02. Investment Pools - The Consolidated Pension Fund is composed of various investment pools for the Pension Funds. It is the intent of the Board that there be separate portfolio guidelines for the administration of each investment pool in addition to the policies, objectives and restrictions set forth in section 5.01 above. The Office of the State Treasurer, as staff agency for the Board, shall administer each investment pool in the Consolidated Pension Fund in accordance with the rules and regulations set forth in this series and as may be further prescribed by the Board. All the investment pools which compose the Consolidated Pension Fund shall be required to meet individually the guidelines outlined in Tables I and II.

5.03 Instructions for Use of Tables - The percentages in the "Minimum" column are the minimum percentages which the State Treasurer must maintain in each type of investment instrument. For example, the 15% figure in Table I, Line 1, means that the State Treasurer must at all times keep at least 15% of the Investment Pool invested in U.S. Government obligations. If the minimum percentage is "0", as in Table I, Line 2, the State Treasurer is not required to invest any moneys of the pool in instruments of that type.

The percentages in the "Maximum" column are the maximum percentages of the pool which may be maintained in each type of instrument. For example, in Table I, Line 1, the 100% figure in the "Maximum" column means that the State Treasurer may keep the entire pool invested in U.S. Government obligations.

If the maximum percentage is "10", as in Table I, Line 4, this means that the State Treasurer is permitted to invest in instruments of that type up to a maximum of 10% of the pool.

In Table I, the "Code Reference" column refers to the section of the West Virginia Code which authorizes the kind of instrument described under the "Instrument" column.

TABLE I

GUIDELINES FOR DIVERSIFICATION

ACCORDING TO KIND OF INVESTMENT INSTRUMENT

<u>Instrument</u>	<u>Code Reference</u>	<u>Minimum</u>	<u>Maximum</u>
1. U.S. Government Obligation	§12-6-9(a)	15%	100%
2. U.S. Government Agency Obligation	§12-6-9(b)	0%	100%
3. Federally insured WV home mortgages	§12-6-9(d)	0%	10%
4. Privately insured pools of WV home mortgages	§12-6-9(f)	0%	10%
5. Corporate bonds, notes debentures, commercial paper and other evidence of indebtedness	§12-6-10(1) §12-6-9(g)	0%	75%
6. Commercial paper and other corporate obligations maturing in less than one year	§12-6-10(2) §12-6-9(g)	0%	20%
7. Obligations of any single private corporation	§12-6-10(3)	0%	3%
8. Fully collateralized WV certificates of deposit	§12-6-9(h)	0%	30%
9. Repurchase agreements	§12-6-5(9)	0%	75%
10. Reverse repurchase agreement	§12-6-5(10)	0%	15%

11. Equity securities of

Standard & Poors 500 Companies *	0%	35%
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*Investment in securities of this type shall be allowed only to the extent authorized by statute.

TABLE II

GUIDELINES FOR DIVERSIFICATION
ACCORDING TO QUALITY OF CORPORATE DEBT INSTRUMENTS

AUTHORIZED BY

TABLE I

<u>Instrument</u>	<u>Minimum</u>	<u>Maximum</u>
1. Corporate bonds and notes rated "AAA"	0%	100%
2. Corporate bonds and notes rated "AA"	0%	50%
3. Corporate bonds and notes rated "A"	0%	30%
4. Commercial paper rated in highest grade ("P-1" or equivalent)	0%	20%

Any corporate debt instrument that is downgraded following purchase may be liquidated at the Treasurer's discretion if such downgrading puts the debt instrument out of compliance with the aforementioned table.

Section 6. Miscellaneous

6.01. Minimum Amount of Investment - The minimum amount of investment in the Consolidated Pension Fund is One Thousand Dollars (\$1,000.00). There is no minimum time for which deposits will be retained.

6.02. Payment of Expenses from Earnings - The Treasurer shall deduct expenses incurred in the administration of the Consolidated Pension Fund from the gross earnings of the fund monthly. Such fees shall be established by the Board.

6.03. Board Reports - The Treasurer, as staff agency for the Board, shall provide the Board a monthly report reflecting all purchases, sales, and trades for each pool. Also, a copy of the portfolio for each investment pool, reflecting the market value for each investment, shall be provided to the Board.

6.04. Authorized Financial Institutions and Brokers - The Treasurer, acting as staff agency for the Board, shall be prohibited from doing business with any financial institution or brokerage firm that has not been approved by the Board. At the first Board meeting of each fiscal year, the Treasurer shall provide the Board with a complete list of all financial institutions and brokerage firms currently on the approved list for their review.

SERIESII/GEN8910

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-6
Series II
(1978 - Amended 1989)

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SERIESII/GEN8910

PUBLIC HEARING
AMENDED RULES AND REGULATIONS
CONSOLIDATED FUND AND CONSOLIDATED PENSION FUND

A public hearing was held on December 4, 1989, at 2:15 p.m. in the State Capitol Complex Conference Center, Building 7, Room B.

Those present were:

Jerry Simpson, State Treasurer's Office
Mark Asaad, State Treasurer's Office
June Coffey, State Treasurer's Office
Marie Prezioso, Wheat First Securities
Phil Divita, Department of Public Safety
W. M. "Brud" Ansel, Teachers Retirement Board

Mr. Simpson called the meeting to order. Copies of the West Virginia Administrative Regulations for the consolidated fund and the consolidated pension fund were distributed to those present and are made a part of these minutes as Attachments No. 1 and 2, respectively. The first rules considered were those for the consolidated fund. Mr. Simpson pointed out that the main changes which had been made were (1) to identify the individual pools that are in existence or may be in existence in the future and (2) to establish specific guidelines for each pool. Mr. Simpson explained that, previously, general guidelines applied to all the pools. He stated that the only objection which had been received related to Section 5.02(b) where an individual suggested there should be further definition of U.S. government agency obligations limiting them to only those that are 100 percent guaranteed by the U.S. government. At present, this would restrict us to GNMA's for the restricted pool. Mr. Simpson asked if there were any other suggestions or concerns regarding rules for the consolidated fund. There being no statements, he proceeded to the rules and regulations for the consolidated pension fund.

Mr. Simpson stated that the intent was to establish requirements that each individual pool had to meet the guidelines of Tables I, II and III. Previously, as long as the total consolidated pension fund pool met requirements, they were considered within the guidelines. One suggestion received was that the maturity schedule of Table III should be liberalized so that we would not have everything so long that we would perhaps have to sell something short; therefore, having a minimum of 10 percent to mature within 91 days will be taken into consideration. In response to a question from Mr. Divita regarding Table III, Mr. Simpson stated that it was likely that Nos. 2, 3 and 4 would be eliminated. Inasmuch as we have outside advisors, it would be left up to them to determine the structure of the portfolio as far as the length of maturity. He noted that the advisors advise the staff, within the guidelines; and the staff is required to execute 100 percent of their recommendations, with the Board monitoring the advisors' performance.

Mr. Ansel stated that the thing that had always confused him was that they were supposed to be in a pool where all share and share alike - yet each had separate portfolios. Mr. Simpson explained that, under the original rules and regulations, the idea was that, at some point in time, if the Board of Investments thought it advisable, they would be able to consolidate all of the pension funds, Workers' Compensation and black lung funds into one pool and, at that time, share and share alike. However, since that time, the Board has taken the position that, since the needs are totally different, each account should be kept under a separate outside advisor with their own portfolio. Mr. Ansel questioned the use of the word "pool." In discussion, it was agreed that the word "pool"

was used incorrectly. Mr. Divita suggested that some restrictions be left; that the advisors not be given an "open hand" on terms of investments.

There being no further comments, the meeting was adjourned at 2:30 p.m. At the point of adjournment, two representatives from the National Bank of Commerce, Charleston, West Virginia, entered the meeting - Buel S. Sears and John P. Casio. Mr. Sears requested that he be allowed to address the group. His comments were, "My name is Buel Sears of Charleston, West Virginia. I am representing the interest of my family and other West Virginia families like mine (who) through our tax payments directly and indirectly bear the cost of providing the retirement benefits for our State workers. The State retirement system is structured as one where the State, as employer, bears the cost of providing the defined benefit at retirement for their employees. Functionally, the State sets aside each year enough money to cover what it expects those future benefits will be. The State essentially assumes the risk of any shortfall. The risk we assume as taxpayers is that investment returns will not be sufficient to cover increases in wages and subsequent increases in benefits. The current pension investment policy calling for a portfolio of 100 percent fixed-income securities could be considered as the most expensive way to fund these future liabilities. Maintaining such a disproportionate amount of funds 100 percent in only one asset class detracts from the long-term policy of the investment program. It is my opinion that no one asset class is isolated from unforeseen changes in its market environment. Furthermore, having 100 percent of the investment portfolio in one area necessarily means that issues with equal or superior potential

are not represented. I would suggest initiation of a reduction in the amount of money allocated to fixed-income securities and to allocate funds to other areas which offer more long-term potential, specifically, a diversified portfolio of equity securities of large capitalization, seasoned growth companies in the best interest of the State of West Virginia." Mr. Simpson told Mr. Sears that this was a problem of the code, that the constitution prohibits the State from investing in equities; however, the question which needs to be answered is whether that applies to the trust funds or just to State funds. He noted that this would be brought before the Legislature again during the 1990 session.

Respectfully,


Jerry Simpson
Assistant State Treasurer

PUBLIC1/INVEST